

NATIONAL DEFENSE UNIVERSITY

NATIONAL WAR COLLEGE

EIGHT FRIGATES FOR FRIENDS AND ALLIES

CORE COURSE 5603 ESSAY

MR. JOHN CAVES/CLASS OF 2000
NWC COURSE 5603, THE NATIONAL SECURITY PROCESS
SEMINAR J
MR. ROBERT KUGLER, FACULTY SEMINAR LEADER
DR. RON TAMMEN, FACULTY ADVISER

Report Documentation Page				Form Approved OMB No. 0704-0188	
Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.					
1. REPORT DATE 2000		2. REPORT TYPE N/A		3. DATES COVERED -	
4. TITLE AND SUBTITLE Eight Frigates for Friends and Allies				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S)				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) National Defense University National War College Washington, DC				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release, distribution unlimited					
13. SUPPLEMENTARY NOTES					
14. ABSTRACT					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT UU	18. NUMBER OF PAGES 15	19a. NAME OF RESPONSIBLE PERSON
a. REPORT unclassified	b. ABSTRACT unclassified	c. THIS PAGE unclassified			

During 1995, the Administration and Congress wrestled over the Administration's legislative proposal to transfer excess U.S. Navy frigates to U.S. friends and allies. This case study does not concern one of the great national security issues of the late twentieth century, like the Persian Gulf War or NATO's intervention in the Balkans, nor does it involve the very highest levels of the government, such as the President, his Cabinet-level advisers, the Speaker of the House of Representatives or the Majority Leader of the Senate. Rather, it is about a second tier national security issue that engages primarily two departments and decision-makers up to the level of Under Secretary and Committee Chairman. Its modest dimensions notwithstanding, this case study provides insight into how an Administration reacts to an unexpected Congressional rebuff and how Executive and Legislative branches interact to achieve workable compromises.ⁱ

Background

In May 1995, the Administration submitted to Congress a legislative proposal to authorize the transfer of eight Perry-class frigates (FFG) to five friends and allies: Bahrain (1), Egypt (2), Oman (1), Turkey (3), and United Arab Emirates (UAE) (1). All but the FFG for UAE were proposed for transfer on a grant basis; the FFG for UAE would be leased. On August 7, the Senate Armed Services Committee (SASC) reported favorably its Fiscal Year (FY) 1996 defense authorization bill, which included the ship transfers with the Administration's proposed terms of transfer (seven grants and one lease). On September 19, the House International Relations Committee (HIRC) favorably reported a stand-alone ship transfer bill that would authorize the transfer of the eight FFGs only on a sales or lease basis. Moreover, the HIRC bill would amend permanent law to preclude any future ship transfers on a grant basis.

Following energetic efforts by OSD staff in the ensuing weeks to broker a compromise acceptable to the cognizant committees, State Department, and Navy, the final version of the

FY96 defense authorization bill, which would become law on February 10, 1996, authorized four grants and four sales or leases of FFGs as follows: Bahrain (one grant), Egypt (one grant and one sale or lease), Oman (one sale or lease), Turkey (two grants and one sale or lease); and UAE (one sale or lease). New authority was provided to allow U.S. Foreign Military Financing (FMF) assistance to pay lease costs for these ships. The final version also amended permanent law to prohibit future grant transfers of ships, but explicitly acknowledged that the Administration could request that Congress waive the prohibition if in the national security interest to do so.

National Security Context

The primary issue at stake in this case study was the President's ability to establish the terms on which he could transfer excess naval vessels to friends and allies to advance U.S. national security interests. The President, through his subordinates in the national security community, particularly in the Departments of Defense (DoD) and State, makes ship transfers, like other arms transfers, for a number of reasons: 1) to enhance the defense capabilities of friends and allies in support of mutual security interests; 2) to strengthen bilateral relations between the United States and recipient nations; 3) as incentives for cooperation that the United States seeks from recipient nations; and 4) to benefit the U.S. defense industrial base by promoting recipient nations' purchase of related U.S. defense articles and services.

The terms of transfer distinguish an aid transaction from something more akin to a business deal. U.S. willingness to sell a scarce defense asset like a major naval combatant to a particular country avails that country of a highly favorable opportunity and says much about the U.S. view of that country. However, U.S. statute and regulation require that the United States sell the ship (or any other defense article or service) to the country at its full cost. If a country receives U.S. Foreign Military Financing (FMF) assistance (only a few do), the country may

apply that FMF to its purchase of the vessel.ⁱⁱ If a ship is leased, the lessee gains the advantage of being able to use the item for a defined period without having to incur the higher cost of an outright purchase. However, the lease cost reflects the full depreciation of the ship's value during the lease period and therefore is not a discounted rate. Moreover, permanent U.S. law does not permit a country to apply its FMF to lease costs. Only if the ship is provided on a grant basis is it truly a form of aid, with the attendant policy benefits/leverage for the United States.

The HIRC vote brought into doubt the Administration's ability to deliver on its policy decision to transfer ships to five friends and allies.ⁱⁱⁱ At a minimum, the enactment of less favorable terms of transfer than the Administration had led the intended recipients to expect would cause some damage in bilateral relations. The Administration was keen to avoid this situation since the cooperation of all of the intended recipients was important to the successful prosecution of the President's Iraq policy. Some of the intended recipients felt strongly that their sacrifices in support of that policy entitled them to the transfers of ship(s) on a grant basis.^{iv}

Over the longer term, the HIRC bill would deny the President the ability to use grant transfers of ships as a form of assistance to advance U.S. national security and foreign policy interests. This was particularly significant since other sources of foreign aid were being reduced.

Controlling Authorities

Section 7303(b)(1) of Title 10 of the U.S. code is the primary controlling authority for this case. It provides that a naval vessel in excess of 3,000 tons or less than 20 years of age (the FFGs met both criteria) may not be transferred to another nation except as explicitly authorized by law. This section of law distinguishes ship transfers from other types of major arms transfers in requiring the President to secure positive action by Congress before the transfer can be made. For other major arms transfers, the President may make the transfer unless, within a specified

notification period, a law is enacted prohibiting the transfer.^v It generally is easier to get Congress to refrain from acting than to get it to enact legislation acceptable to the President.

Decision-makers

The Under Secretary of Defense for Policy (USDP) decides what nations receive what ships on what terms. He does this in reaction to a proposal forwarding to him by his staff but originating in the Navy. The Secretary of the Navy determines what ships are available for transfer and formulates a proposal, based on its knowledge of other navies' needs, as to what nations the available ships should be transferred and on what terms. USDP's decision regarding the Navy's proposal (plus any alternative offered by USDP's staff) requires the concurrence of the Under Secretary of State for Arms Control and International Security Affairs.^{vi}

Within Congress, the HIRC and SASC are the key committees for ship transfers, having been assigned jurisdiction over such matters by their respective houses. The HIRC and SASC report, or do not report, as the case may be, to their respective houses legislation authorizing ship transfers. The Chairmen are the most influential members of these committees, but do not have directive authority over their respective committee's membership as USDP has over his bureaucracy. The most influential Members of Congress for any piece of legislation generally are those who, for whatever reason, have taken a strong interest in that legislation.

For the ship transfers at issue, the most influential Members of Congress were Representatives Sam Brownback (R-KS) and Don Manzullo (R-IL). They took a strong stand in favor of maximizing the return to the U.S. Government from the transfer of these high residual value vessels by permitting their transfer only on a sale or lease basis. Brownback was one of the many conservative freshmen Republicans committed to smaller government and deficit reduction whose 1994 election had given Republicans control of the House for the first time in

about 40 years. Similarly minded Manzullo was in his second term. No other HIRC member perceived sufficient interest in challenging their position on this issue, particularly since none of the vessels were proposed for transfer to, or sought by, a country with an influential lobby in the Congress, such as Israel or Greece.^{vii} For any other HIRC member to oppose Brownback and Manzullo's fiscal rectitude argument only would have exposed them to politically adverse charges of favoring foreign "give aways" over reducing the budget deficit.^{viii}

The eight proposed FFG transfers evoked no strong interest in the SASC. The SASC was focused on the numerous issues of greater policy significance for the country or political interest for individual members in the large defense authorization bill for which it was responsible. Hence, the SASC incorporated the Administration's proposal largely intact into their FY96 defense authorization bill and then receded to the House position in the subsequent conference.

Participants

This ship transfer legislative issue involved numerous participants within the Executive and Legislative Branches, including the Department of the Navy, Office of the Secretary of Defense (OSD), State Department, Office of Management and Budget (OMB), HIRC, SASC, and the House National Security Committee (HNSC).

Within Navy, key participants included the Assistant Deputy Chief of Naval Operations for Plans, Policy, and Operations (ADCNO/PPO) and his staff, which handled policy issues for the Navy pertaining to ship transfers; the Navy International Programs Office (Navy IPO), which managed all security assistance and arms transfers matters for the Navy and prepared the actual FFG legislative proposal; and the Navy's legislative affairs office. Navy initiated the ship transfer matter by putting forward in early 1995 for DoD and interagency approval the proposed legislation authorizing the transfer of the eight FFGs. The ADCNO(PPO) testified before the

HIRC in July on the Administration's proposal. As the issue unfolded, Navy played an essential role for DoD, State, and Congress in answering detailed questions about the ships' costs, condition, and capabilities and the proposed recipients' requirements and intentions for the ships.

Within OSD, the key players were the Defense Security Assistance Agency (DSAA) and the Special Assistant to USDP (SA/USDP). DSAA managed all security assistance and arms transfer matters for OSD and provided legal advice on such matters to other OSD players through its General Counsel. The SA/USDP closely tracked the ship transfer issue by communicating directly with all of the various players, provided independent advice to USDP, and afforded DSAA and others an informal means for assessing USDP views on the unfolding situation. The European Policy (EUR) and the Near East and South Asian Affairs (NESA) offices in the Office of the Assistant Secretary of Defense for International Security Affairs assessed the policy implications of transferring the FFGs on various terms to the intended recipients in their respective regions. The Assistant Secretary of Defense for International Security Affairs (ASD/ISA), to whom DSAA, EUR and NESA all reported, determined what formal recommendation and supporting analysis would be forwarded to USDP for decision. The Office of the Assistant Secretary of Legislative Affairs (OASD/LA) coordinated on legislative strategy issues and sought to ensure that developments on this issue did not adversely impact other matters of higher priority for OSD in the FY96 defense authorization bill.

Within State Department, the key participants included the Office of Regional Security and Arms Transfers in the Bureau of Politico-Military Affairs (PM/RSAT), which managed all security assistance and arms transfer issues; the Bureaus of European and Canadian Affairs (EUR) and Near Eastern Affairs (NEA), which assessed the policy implications of altering the terms of transfers to the recipients in their respective regions; and the legislative affairs office

(H), which closely regulated all State Department interaction on this and other issues with Congress. DSAA coordinated with these concerned State Department offices through PM/RSAT to ensure that the final authorization legislation would enjoy essential State Department support.

OMB coordinated on legislative proposals to ensure consistency with the Administration's overall legislative program and budget. It was through OMB's Legislative Referral Service that the Administration's original ship transfer legislative proposal was coordinated formally throughout the interagency and approved for formal submission to the Congress. DSAA later would coordinate informally with its OMB counterpart office the compromise legislative language that the Congress ultimately enacted.

Required Action

The required action for this issue was enactment of legislation that authorized the President to transfer the eight FFGs to the intended recipients on terms supportive of U.S. national security and foreign policy interests and that preserved the President's ability to use ship transfers in the future as an effective policy instrument. Securing this legislation required DSAA, acting on behalf of USDP, to fashion a compromise that met the above tests and enjoyed the support of the various Executive and Legislative branch players in a position to block or alter the requisite legislation.

Factors

For a variety of reasons, the concerned officials in Navy, OSD, and State failed to anticipate the adverse HIRC reaction to the Administration's ship transfer legislative submission. Complacency played an important role. In recent years, ship transfer legislation had become a routine matter. Unfamiliarity with the new Congress also was a factor. The Republicans' unexpected electoral gains in November 1994 caused a major shift in power and dominant

attitudes in the Congress. It would take time for Executive Branch officials to read the new majority, particularly on a second tier issue like ship transfers.

The grant-heavy nature of the ship transfer submission also appealed to the interests of the various concerned Executive Branch offices, which may have inhibited closer Executive Branch scrutiny of the terms of transfer. Whereas during the Cold War the Navy generally had preferred to lease than to sell or grant capable ships in order to be able to reclaim the ships in the event of war with the Soviet Union, the downsizing imperatives of the post-Cold War period caused Navy to abjure the accounting burden of maintaining unneeded vessels on its roles. Navy would have favored sales over grants if the resulting proceeds returned to Navy's budget, but OMB and others had rejected Navy initiatives in that regard in order to maintain control over Navy spending. Grants, therefore, offered Navy the fastest way to rid itself of unneeded ships. For OSD and State, grant transfers of FFGs offered a means to somewhat mitigate a sharp decline in foreign assistance funding, an important instrument of U.S. statecraft.

Concerned Executive Branch officials nonetheless did get some advance warning of the problems to come. During a standard Navy/DSAA briefing to the HIRC in early 1995 on the Administration's upcoming ship transfer legislative package, HIRC staff cautioned that the HIRC's new Republican majority might balk at the terms. Navy and DSAA staff included the HIRC warning in their post-briefing report to superiors, but may not have sufficiently emphasized the warning to gain the requisite attention of officials busy with other issues and pre-disposed to be supportive of and optimistic about the ship transfer package.

When the HIRC manifested its opposition to grant transfers of ships, the concerned Executive Branch's initial reaction was strongly resistant vice accommodating. Could the HIRC

be persuaded to change its position and accept the Administration's proposal? If not, could the Administration find a way to get its legislation enacted despite the HIRC's opposition?

DSAA staff probed the HIRC staff for ways that the opposition of Reps. Brownback and Manzullo to grant transfers could be reversed or overcome. What arguments or information might change those Members minds? Could the Chairman be induced, perhaps by a call from a senior Administration official, to weigh in with Reps. Brownback and Manzullo to get them to alter their position or with other members to get them to outvote those two? HIRC staff offered no encouragement that Brownback and Manzullo could be outvoted or persuaded to concede their demand that the U.S. Government secure some financial return for the transfer of the FFGs.

DSAA staff also checked with SASC staff to determine if the SASC would fight hard for the Administration's proposal in conference. SASC staff did not evince the requisite interest, no doubt reflecting the secondary nature of this issue in the larger defense authorization bill.

DSAA staff then probed the House National Security Committee (HNSC) staff to determine whether the HNSC leadership would be willing and able to disregard the HIRC position on this issue in preparing their version of the FY96 defense authorization bill. This raised a tricky jurisdiction issue that stemmed from the fact that the House and Senate had assigned jurisdiction for ship transfers to committees that were not counterparts: the SASC counterpart is the HNSC, while the HIRC's counterpart is the Senate Foreign Relations Committee. Because the SASC was responsible for the preparation of defense authorization legislation, it could and did incorporate the ship transfer legislation into that bill. The HIRC had no jurisdiction over the defense authorization bill *per se*; it only could demand sequential referral of those portions of the bill that concerned its assigned areas of jurisdiction, such as ship transfers. Sequential referral would give HIRC an opportunity to affect the ship transfer

provisions during committee consideration, but not the same influence that it would enjoy if it originated the bill. Moreover, the HNSC would manage the defense authorization bill on the House floor, and could facilitate consideration of a ship transfer floor amendment without sequential referral, which pertains only during committee consideration.

HNSC's disregard of HIRC's position on ship transfers, however, would embitter relations between the committees at the expense of future cooperation. Moreover, the new Republican Chairmen of the HNSC and HIRC, like the new Republican majority generally in the House, were striving to avoid letting traditional jurisdictional disputes disrupt the party unity necessary to pass the Republican's ambitious legislative agenda. As such, the HNSC staff offered no encouragement that the HNSC leadership would disregard HIRC on ship transfers.

Evidently unable to reverse or avoid the strong positions of Reps. Brownback and Manzullo against grant transfers of ships, the DSAA staff worked with the HIRC staff to determine a feasible compromise solution. While DSAA's soundings indicated that it was unlikely that the HIRC position would be challenged within the Congress, the HIRC, for its own part, tended to view its prospects more conservatively. The HIRC had a relatively poor record of securing enactment of bills under its jurisdiction. Despite having reported many foreign aid authorization bills since 1985, none had been enacted. The House Foreign Operations Appropriations Subcommittee, which did get its annual foreign operations appropriations legislation enacted, had usurped much of HIRC's authority on foreign aid and arms transfers. The HIRC's new Republican leadership was intent on succeeding where its Democratic forebears had failed. It therefore was open to consideration of a compromise on the ship transfers if such compromise would gain at least tacit Administration backing during the balance of the legislative process. DSAA and HIRC staff thus were able to reach an informal

understanding that HIRC could support in conference a package with half grants and half sales or leases if the Administration would support the compromise with the HNSC and SASC.

DSAA staff used the informal SA/USDP channel to ascertain that USDP would be amenable to compromise. The principal challenge DSAA faced in drafting the specific language was determining how to allocate the grants and sales or leases among the four recipients previously proposed to receive only grants. Relevant factors to be considered in this endeavor included: 1) the relative importance of each of the four recipients to U.S. national security and foreign policy interests; 2) their ability to afford sales or leases; 3) how a change in the terms of transfer would impact their interest in acquiring not only these vessels but, in the future, other U.S. vessels and naval systems; 4) how to get the different regional policy offices to agree on less favorable transfer terms; and 5) the likely HIRC preferences.

DSAA proposed that the four grants be allocated as follows: Bahrain (1), Egypt (1), and Turkey (2), thereby switching from grant to sales or lease one frigate each for Egypt, Oman, and Turkey. A grant for Bahrain was an easy call because the United States needed to reward Bahrain for hosting the new U.S. Fifth Fleet headquarters. HIRC staff had informed DSAA staff that a grant for Bahrain would not be controversial in the committee. Not granting an FFG for Oman constituted another straightforward decision since Oman's interest in the frigate was lukewarm. The difficult choice, from both policy and bureaucratic politics perspectives, was whether to favor Egypt or Turkey with grants. Both countries were important to U.S. interests.

DSAA opted for favoring Turkey for a number of reasons: 1) Egypt received more FMF assistance than Turkey and on better terms (\$1.3 billion in grants vice \$320M in loans); 2) Turkey already had sunk \$5.1 million dollars into this frigate program, so had more to lose if a change in terms made the frigates unaffordable; 3) Turkey's recognition that it had received

relatively favorable treatment might advantage U.S. competitors for Turkey's Frigate 2000 program, a planned future procurement of modern, new construction frigates; and 4) the two concerned regional offices would be more likely to support the overall allocation if each received two grants (EUR would have two for Turkey and NES/NEA would have one each for Bahrain and Egypt). DSAA sought to make the change of terms more palatable to both Egypt and Turkey and their respective OSD/State patrons by proposing authority that would allow them to use their FMF to pay lease costs. DSAA's logic proved sound as it secured the coordination of the two regional offices as well as of other concerned offices on the proposed new terms.

DSAA, however, still had to deal with the issue of the President's future ability to use grant transfers of ships to promote U.S. national security and foreign policy interests. This issue was more of a concern for the cognizant functional offices, particularly DSAA, State/PM, and OMB, which defend the President's general authorities, than for the regional offices, which focus on issues directly impacting their regions. DSAA sought HIRC staff agreement to various formulations less constrictive than the HIRC's unqualified prohibition, mainly ones that permitted the President to waive the prohibition in certain, vague circumstances under his own authority. Ultimately, DSAA conceded language that explicitly acknowledged that grant transfers might be permitted in the future when in the national security interest, but left it to Congress to determine when such exceptions were so justified. The resultant impairment of the President's authority was mitigated by the fact that other provisions of law already required Congress to pass legislation before any major naval combatant could be transferred (the aforementioned controlling authority), so, in the end, Congress would authorize such transfers of the terms it saw fit. By emphasizing this mitigating factor, DSAA secured the other concerned Executive Branch offices' coordination on the compromise language.^{ix}

Once the substance of the compromise solution had been coordinated informally with HIRC staff and the concerned Executive Branch offices, DSAA prepared and successfully staffed the formal decision memorandum to USDP, eventually securing his approval. DSAA orally informed the concerned Congressional committee staffs of Administration support. The HNSC, at HIRC's behest, offered the compromise language to the SASC during the conference committee's staff-level deliberations, and SASC staff accepted it. The issue was resolved before Members actually met in conference committee and did not require their attention.

Conclusion

This case study of the Clinton Administration's 1995 endeavor to secure legislation authorizing the transfer of eight Perry-class frigates to five friends and allies concerned a second-tier policy issue. Yet, had the Administration failed to secure the authorization on acceptable terms, U.S. relations with some important countries would have been harmed and the President's future ability to use ship transfers to advance U.S. interests would have been impaired. The Administration stumbled into a Congressional problem on this legislation out of a mixture of complacency, shortsightedness, and ignorance. The issue engaged a number of offices primarily within two Executive Branch departments and officials up to the Under Secretary level as well as several Congressional committees. OSD achieved an acceptable compromise outcome by identifying the various players' needs on the issue and crafting a compromise that reconciled those varying needs. This case study underscores the centrality of compromise to securing viable outcomes in the multifaceted national security process.

ⁱ The author played a central role in this matter as Deputy Director for Plans, Defense Security Assistance Agency.

ⁱⁱ A few cost elements of items purchased with FMF funds are discounted, but U.S. military assistance overwhelming comes in the form of financing made available to countries for the purchase of U.S. defense articles and services vice a reduction in the price of articles or services being sold.

ⁱⁱⁱ Navy compounded the problem by initiating, in anticipation of routine enactment of the ship transfer legislation, training of Turkish crews that caused Turkey to sink \$5M into the program before transfers were assured.

^{iv} Turkey sought compensation for billions of dollars of economic losses resulting from its compliance with United Nations sanctions against Iraq, which had been one of Turkey's largest trading partners before the Gulf War.

^v As a matter of practice, Administrations hold up any arms transfer if one or more Senators or one or more House Committee Chairmen or Ranking Members objects to the transfer until that Member(s)' concerns are satisfied.

^{vi} U.S. law accords to the Secretary of State policy control over arms transfers of any type. SecState has delegated this authority to the Under Secretary of State for Arms Control and International Security Affairs.

^{vii} Notwithstanding the three vessels in the package proposed for Turkey, Greece had passed on the opportunity to acquire a number of these same types of FFGs in hopes of acquiring more modern versions of the vessels when Navy declared such models excess sometime in the future.

^{viii} HIRC Chairman Benjamin Gilman (R-NY) said during the HIRC's September 19, 1995 mark-up of its ship transfer bill, "Simply, the Navy has significantly misjudged the feeling here in the Congress. Rightly or wrongly, this package is being considered as foreign aid. Foreign aid, of course, has never been too popular, but perhaps even less so these days." *Markup of H.R. 2346, To Authorize the Transfer of Naval Vessels of Certain Foreign Countries; Markup of H.R. 2070, To Provide for the Distribution Within the United States of the United States Information Agency Film Entitled 'Fragile Ring of Life;'* *A Letter to the Speaker Regarding the Export Enhancement Program [EEP]*, Tuesday, September 19, 1995, House of Representatives, Committee on International Relations, Washington D.C.: 3.

^{ix} Within the next year, DSAA would succeed in getting this limitation on the President's authority removed as part of a comprehensive revision of U.S. military assistance and sales authorities.